

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE TRICOR INDIRECT PURCHASER
ANTITRUST LITIGATION

C.A. No. 05-360 (***)
(consolidated)

THIS DOCUMENT RELATES TO:

C.A. NOS. 05-360; 05-365; 05-390; 05-394;
05-426; 05-450; 05-467; 05-475; 05-482;
05-516 AND 05-695.

**END-PAYOR PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO SERVE
SUPPLEMENTAL DECLARATION OF CHARLES KING III
CONCERNING DAMAGES PURSUANT TO FED. R. CIV. P. 26(a)(2)(b) and 26(e)**

1. Pursuant to Fed. R. Civ. P. 26(a)(2)(b) and 26(e), End-Payor Plaintiffs respectfully move to serve the Supplemental Declaration of Charles King III Concerning Damages, dated May 1, 2007 (the "Supplemental Damages Report"). The reasons are as follows:

2. End Payor Plaintiffs served the initial Declaration of Charles King III Concerning Damages on December 15, 2006, within the time required by the Court's schedule for the service of plaintiffs' expert reports. Early last month, Dr. King determined that his initial report required supplementation to account for a previously unrecognized inconsistency in the way certain transactional data relied upon in the report was presented. End-Payor Plaintiffs promptly disclosed Dr. King's discovery to the defendants, and provided the Supplemental Damages Report containing End-Payor Plaintiffs' recalculation on May 2, 2007. Defendants are not disadvantaged by the submission of the Supplemental Damages Report at this time because they have not yet deposed Dr. King or submitted their economic reports.

3. The preferred practice in this Court is to seek leave to serve a supplemental report. *Inline Connection Corporation v. AOL Time Warner Inc.*, 2007 WL 61883 at *4 (D. Del. 2007) (Thynge, M.J.). End-Payor Plaintiffs have properly and fully discharged their responsibility to supplement under Fed. R. Civ. P. 26(a)(2)(b) and 26(e). *See Freeman v. Minnesota Mining and*

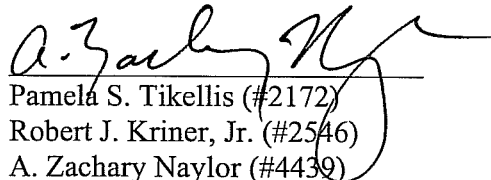
Manufacturing Co., 675 F. Supp. 877, 888 (D. Del. 1987) (permitting plaintiff to rely on rule 26(e) supplement to expert disclosure at summary judgment).

4. Defendants do not oppose this motion and further have provided their assurance that they will not at some later date claim prejudice as a result of End-Payor Plaintiffs' service of the Supplemental Damages Report at this time.

WHEREFORE, for the foregoing reasons, End-Payor Plaintiffs respectfully request that this motion be granted.

Dated: May 11, 2007

CHIMICLES & TIKELLIS LLP



Pamela S. Tikellis (#2172)

Robert J. Kriner, Jr. (#2546)

A. Zachary Naylor (#4439)

P.O. Box 1035

One Rodney Square

Wilmington, DE 19899

Tel: 302-656-2500

Fax: 302-656-9053

***Liaison Counsel for End-Payor
Plaintiffs***

CAFFERTY FAUCHER LLP

Bryan L. Clobes

William R. Kane

One Logan Square

18th & Cherry Streets, Suite 1700

Philadelphia, PA 19103

-and-

Patrick E. Cafferty

101 N. Main Street, Suite 450

Ann Arbor, MI 48101

HAGENS BERMAN

SOBOL SHAPIRO LLP

Thomas M. Sobol

David S. Nalven

One Main Street, 4th Floor

Cambridge, MA 02142

-and-

Steve W. Berman

1301 Fifth Avenue, Suite 2900

Seattle, WA 98101

**LABATON SUCHAROW
& RUDOFF LLP**

Bernard Persky
Christopher J. McDonald
100 Park Avenue
New York, NY 10001

**SPECTOR ROSEMAN
& KODROFF, P.C.**

Jeffrey L. Kodroff
Theodore M. Lieberman
1818 Market Street, Suite 2500
Philadelphia, PA 19103

Lead Counsel for End-Payor Plaintiffs